



**CITY OF SOMERVILLE, MASSACHUSETTS**  
***MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT***  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

*PLANNING DIVISION*

***MEMORANDUM***

TO: Chairman Kevin Prior and the Members of the Somerville Planning Board  
FROM: George Proakis, Director of Planning  
DATE: May 16, 2017  
RE: Modification to FRIT Block 8 waiver request – increase in percentage of affordable housing

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The purpose of this memorandum is to inform the members of the Board that the applicant, Federal Realty Investment Trust (FRIT), upon further consideration of the concerns of the Board and after reviewing other affordable housing initiatives currently underway in Somerville, has submitted a proposed modification to their requested waiver for their Block 8 development that would significantly increase the total number of affordable housing units resulting from the project.

The modified proposal includes both newly constructed deeply subsidized units on-site together with creative funding support to secure additional affordable units off-site that would, in keeping with the goals of the SomerVision comprehensive plan, help stabilize neighborhoods under severe pressure due to escalating property values and speculative investment.

In consideration of the improved aspects of this proposal by FRIT, the Planning Division staff recommends that the Board grant approval of the request for the waiver, as modified by the applicant's revised affordable housing proposal and subject to the findings and conditions outlined below in this memorandum.

**Overview**

On April 8, 2017, FRIT appeared before your board to request modification to the timing and design of the master plan building form guideline for Block 8 at Assembly Row. At the request

of the applicant, the Board also permitted them to open the hearing for Block 8, despite having no completed staff report, due to the need to wait for action on the plan modification. At that meeting, FIRT first presented and received approval for their building form guideline. Then, FRIT presented their project, including information pertaining to their request for approval of a waiver of the zoning change that increased affordable housing. After FRIT presented their case, the Board took public testimony.

In the succeeding 14 days, staff prepared a report after completion of analysis. Staff concluded that the Planning Board should support Block 8 and therefore recommended conditional approval. Staff also recommended approval of a number of waivers, but took no position on the proposed waiver of the affordable housing percentage. At the April 20, 2017 meeting, staff summarized this report and additional testimony was taken.

At both of these meetings, a number of community members expressed opposition to the affordable housing waiver. Several members of the business community and a long-standing member of the Mystic View Task Force (the community organization most familiar with Assembly Row) spoke in favor of the waiver.

The Applicant requested a waiver under Section 16.10.2 for Block 8 to be reviewed and governed by the inclusionary housing provisions of the SZO in effect at the time the PUD-PMP was approved. Section 13.3.4 in effect at the time required that 12.5% of the units in any residential development be affordable. To date, the Assembly Row project is building or has constructed over 1,017 residential units, of which 890 are market rate units and 127 are affordable units.

At the end of that meeting, the Planning Board continued the case until Thursday, May 18<sup>th</sup>. During the subsequent weeks, the Planning Division has been discussing the waiver with the design team from FRIT.

### **A Review of the Staff Recommendation Regarding the Original Waiver Request**

The staff had no recommendation on the waiver at the April 20, 2017 meeting. At that time, the staff addressed the solid arguments on both sides of the waiver.

With 12.5% on-site units, the applicant will construct the building with 500 units, including 63 affordable units. Without the waiver, the project would require 100 affordable units (37 more than required in the pre-2016 zoning).

A few items to note about both sides of this issue are reviewed below.

#### Positions against a waiver:

1. The City's need for affordable housing has never been greater. There is no question about that. Inclusionary housing in Somerville is provided with a preference to Somerville residents or those recently displaced from Somerville, and therefore any additional affordable units will benefit those that are most at risk of displacement.
2. We depend upon inclusionary housing to provide affordable housing mixed throughout our neighborhoods. Since the federal government greatly reduced their role in providing affordable housing to communities (a trend that has continued over the past 35 years, and is in even greater threat today), we depend upon using developer-sponsored cross-subsidized inclusionary housing as a primary method for building affordable units.
3. It is assumed that developers, in general, can afford the cross-subsidy. The work completed since 2016 established that the cross-subsidy is extensive, but can be covered by marketable, financeable developments based upon current rents in Somerville, and there are developers that are proceeding at 20% inclusionary housing, although no large projects have been permitted to date.
4. The majority (64%) of the additional units (between 12.5% and 20%) to be provided are at the 80-110% of area median income (AMI) range. This is the range of incomes that has the greatest group of people seeking housing in Somerville and unable to achieve it. At this income range, many working residents are unable to seek new market rate housing, when market rate rents are more in line with individuals making greater than 190% of AMI. These units also require less subsidy than the 50% and 80% units.

#### Positions in favor of the waiver:

1. The project site was purchased, financed and designed based upon a multi-phase multi-year buildout, and the 2016 zoning changes the ground rules in the middle of this process. The project remains essentially unchanged from the 2010 plan, with the exception of the replacement of IKEA with a commercial office building housing over 4500 jobs. FRIT funded extensive community benefits (which they have outlined in a recent letter to the Board). They are operating a successful project that is covering its DIF bonds and contributing to our tax base. With the opening of Blocks 5A and 6, additional property taxes, hotel room tax and meals tax will be generated from this project. Block 2 has provided 100,000 sf of office space, and the development of Block 5B will bring additional jobs to the neighborhood. The project has required the up-front purchase of land, including, in this case, land that was purchased from Central Steel, Spaulding Brick and Green Cab as part of a partnership to complete this mixed-use transit-oriented development. The purchase price of this land was based upon the ability to complete the PUD program with the zoning in place at that time. FRIT continues to advance the approved PUD, and is

building under the overall allowance of uses under the PUD as established in 2006 and 2010 decisions. The original PUD zoning anticipated this sort of circumstance and established the waiver to be provided in cases such as this, where it may be inappropriate for new rules to apply to ongoing projects.

2. The 2016 amendments permitted more affordable units but also anticipated housing bonuses. The bonus allows developers to provide additional market-rate units as a part of the project, thereby adjusting the overall project finances to help the cross-subsidy. But, those bonuses are designed for individual projects that are regulated for density based upon the 'lot area per dwelling unit' metric. The analysis of the 2016 amendments was based upon assuming these bonuses as a part of the total unit calculation. The nature of the PUD (with an overall unit cap across multiple buildings) does not permit bonus units to be incorporated in the project and therefore limits the ability for the applicant to afford the cross-subsidy.
3. FRIT has indicated that with the funds invested in this project to date, including land costs and public benefits, plus the cost of construction, the development may not work with 20% affordable housing. If Block 8 is delayed or cancelled, the City will lose the net tax revenue generated by the project, and the region will lose 500 units of housing at a time when the pace of new housing construction in the region is at less than half of what is needed to meet current demand. Somerville remains focused on doing our part to meet regional housing needs and to mix residential with commercial development as we create new neighborhoods. Despite some statements to the contrary, it would not be any benefit for the City if an action causes this project to be unable to go forward.
4. Assembly Row is the only project in the region that the staff is aware of where zoning amendments impact an in-progress multi-phase project. The provisions that the applicant is seeking in this waiver are, fundamentally, granted automatically in projects such as Cambridge's NorthPoint, because special permits are granted at the start of the project, when community benefits are addressed. This permits the project to proceed towards completion under a single set of rules. The nature of our PUD rules do not allow this. Instead, the project requires the waiver. When the 2016 zoning was first approved, both the staff and the Planning Board presented language that would put Assembly Row in the same position as North Point, where they would be exempt from such a zoning change. The Board of Aldermen chose to remove those provisions. At the time a number of members of the Board of Aldermen focused on the waiver as a more appropriate tool to address this issue.

### **Further Analysis**

Since the April hearing, the Planning Division staff has spent more time discussing the financial situation surrounding this project and the provision of affordable housing. As noted before, this situation is truly unique – this is the ONLY project in the City that would be permitted to apply for a waiver (others would require a ZBA variance).



The staff has reviewed the project costs and capitalization rate for this project, and concluded that, in consideration of the “front-heavy” financial structuring of the overall development, it is unlikely that the project would get built in the current market without the waiver. FRIT has indicated that they do not foresee further investment in Assembly Row in the near future, without the ability to gain a waiver.

Staff worked with the applicant to review a series of options to exceed the pre-2016 baseline affordable unit program in a way that would be advantageous to the City while also making sure that FRIT can successfully build and operate the project.

### **A New Proposal**

In this memo, staff has outlined and analyzed FRIT’s proposed alternative strategy to address affordable housing. This solution will require 1) approval of the waiver; 2) approval of a calculation for funding off-site affordable housing; 3) approval of findings for off-site housing, and 4) approval of an additional condition to address the strategy for implementing the program. As this plan requires a payment for off-site housing, staff recommends that the Board pay particular attention to the conditions of the order, as staff has not recommended an off-site payment in many years. Nonetheless, due to the unique circumstances surrounding this waiver request, the staff has pursued this option as applicable to this project only, at this time.

Based upon this proposal, staff recommends conditional approval of the affordability waiver, based upon the project meeting the findings and implementing the conditions herein attached.

### **Calculating the Value of Offsite Payments**

From the addition of inclusionary zoning into the code in 1990 until the 2016 amendments, there was a single system for calculating the value of off-site units. This formula is used to calculate a value of off-site for-sale units. This calculation does not easily convert for the use of a significant quantity of rental units.

The 2016 amendment attempted to correct this flaw, by adding a new schedule for rental units. But, as noted before, if the waiver is granted, this calculation has no regulatory force, since it is only a guideline. Nonetheless, given that the Planning Board must find and establish an alternative formula, there could be value in using the formula from the 2016 ordinance, and the staff worked to do that. Through this process, we discovered that there are mistakes in the calculation, which will need to be corrected in the future.

Seeing that there were flaws in both strategies for calculating off-site units, the staff decided to undertake a more practical approach. The staff reviewed the current affordable housing activities in Somerville to ascertain what were the most effective approaches to using capital to

secure affordability. Understanding that the “100 Homes” program would be particularly well equipped to deliver off-site units, the staff worked to establish a calculation based upon current experience with the program.

With data from the OSPCD Housing Division and our partners at Somerville Community Corporation (SCC), we reviewed the cost of developing homes in the program to date. While SCC has not taken a position on this proposal, they were helpful in helping the City define the level of subsidy necessary for the 100 Homes program to be a success.

Based upon pro-formas and realistic future performance for the program, the SCC team determined that the 100 Homes program would require a \$307,317 subsidy for a 50% AMI unit and a \$199,813 subsidy for an 80% unit. The program can also provide for families at 100% of AMI at a \$128,195 subsidy.

### **About the 100 Homes Program**

The program is designed to purchase, and make modest improvements to existing buildings in Somerville’s neighborhoods. To date, the program has successfully purchased twenty units in seven buildings. The program is currently run with Community Preservation Act funds provided through the Affordable Housing Trust Fund, and administered by SCC with a credit line from the Massachusetts Housing Investment Corporation (MHIC). The program seeks to create a portfolio of a minimum of 100 units over the next three years, to provide affordability options throughout Somerville’s transit-centered neighborhoods. With available funds, the program allows SCC to bid on homes as they are on the market, and compete against many buyers that would otherwise purchase these homes on a speculative basis, and, after extensive renovations re-sell them at prices far out of the reach of renters in the neighborhood.

Dedicating off-site unit funding to this program does provide for some differences between the use of the funds for traditional on-site affordable units. The units in the 100 homes program:

- a. Have a profile of more bedrooms than those in a typical structure like Block 8
- b. Are located in the middle of our existing neighborhoods
- c. Sometimes are purchased with existing tenants in the building who qualify for rent stabilization as a direct strategy for resisting displacement
- d. Are in a program that may permit units to be later shifted to income-qualifying affordable homeownership units that may provide limited equity to current renters

According to SCC, as verified by OSPCD, the subsidy data is based upon the following conservative estimates:

- Purchase and rehab at \$313,000 per unit
- Soft costs at \$21,652 per unit
- Loan interest costs at \$10,207 per unit (assumed 6% short term loan for 6 months)
- Permanent Mortgage at 5%, 30 years fixed with 1.15 debt service coverage



- \$9,000 per unit operating costs, including insurance, taxes, water and sewer
- Development fee and overhead at \$14,000 per unit
- Capitalized reserves of \$6,000 per unit

<b>Table 1: Inclusionary program at 12.5% - with full waiver</b>				
<b>Location</b>	<b>50% units</b>	<b>80% units</b>	<b>100% units</b>	<b>110% units</b>
On-site	32	31	0	0
Affordable Split	50.8%	49.2%	0%	0%

<b>Table 2: Inclusionary program at 20% - with no waiver</b>				
<b>Location</b>	<b>50% units</b>	<b>80% units</b>	<b>100% units</b>	<b>110% units</b>
On-site	38	38	0	24
Affordable Split	38.0%	38.0%	0%	24.0%

For the purpose of developing a hybrid waiver, Planning Division staff estimated subsidy by rounding numbers as follows:

- 50% unit: \$307,000
- 80% unit: \$200,000
- 100% unit: \$130,000

The hybrid program attempts to require the following:

- Half of required units (6.25%) provided on-site (31 total, with 16 at 50% and 15 at 80%)
- Remainder of required units (6.25%) provided off-site (16 at 50% and 16 at 80%)
- Additional units to reach 16% overall (17 units) provided at 100%

Total off-site fee required:

- 16 units at 50%: Cost: \$4,912,000
- 16 units at 80%: Cost: \$3,200,000
- 17 units at 100%: Cost: \$2,210,000

Total units provided: 49 off-site plus 31 on-site = 80 (16% of total on-site units)

Total payment required: **\$10,322,000**

<b>Table 3: Hybrid On-Site / Payment Program with Waiver</b>				
<b>Location</b>	<b>50% units</b>	<b>80% units</b>	<b>100% units</b>	<b>110% units</b>
On-site	16	15	0	0
Off-site	16	16	17	0
Total	32	31	17	0
Affordable Split	40%	38.8%	21.2%	0%



### **Getting beyond 16%**

The 100 Homes program can support these 49 units with no additional subsidies in combination with securing conventional permanent mortgages. Therefore, the 16% affordability produced by this payment should be achievable. But, in discussion with our partners at SCC, we are all aware that the access to these funds will be able to leverage even more units. The funds in the 100 Homes program have already leveraged additional federal grant money from lead paint and rehab grants as well as additional State funds to house homeless families and individuals. SCC will be able to use these funds to pursue additional state and federal grants. Furthermore, with capital in hand, the program can receive better borrowing rates, and can secure bonds, loan guarantees, and additional lending through bank consortiums and similar strategies. All together, these strategies will allow these funds to produce far more than the 49 units.

### **Holding the funds**

The ordinance indicates that the SPGA needs to determine the entity to hold the funds. The purchase funds in the 100 Homes program have been managed by MHIC to date, and made available to SCC as needed. Staff recommends that these funds be paid to an entity at the choosing of staff who is capable of holding the funds to be used by SCC. This entity can be either MHIC, Mass Housing Partnership, or a similar entity that has a long track record of managing affordable housing investment. The funds must be easily accessible to SCC to allow their housing staff to continue to compete on the Somerville market to purchase homes and stabilize them under the program.

### **Recommendation**

Planning Division staff continues to have no recommendation on the issuance of an unconditional waiver, or approval of the project without such a waiver. But, Planning Division staff does support this compromise and therefore recommends that the Planning Board **CONDITIONALLY APPROVE** the waiver based upon these provisions. The waiver, findings, method of calculation of payments, and conditions are as follows:



**WAIVER:**

Staff recommends that, pursuant to Section 16.10.2, the Planning Board grant the waiver from updated affordable housing requirements that were approved in May 2016, subject to the condition herein attached. The staff recommends that the Planning Board find that the PUD is in compliance with the intent of the zoning and that this proposed condition will permit the project to be developed in a manner that exceeds the level of compliance effective at the time of the approval of the PUD preliminary master plan.

**FINDING:**

*(13.3.4) The SPGA may authorize or require that affordable housing units be provided off-site, or that an alternative method of compliance be used, consistent with Section 13.4 of this Article.*

The staff recommends that the Planning Board authorize an alternative method of compliance for a portion of the affordable units, per Section 13.4, as the proposal meets the findings below.

*(13.4.1) Provisions of on-site units is not in the best interest of the City and low/moderate-income households in particular; OR, off-site units or some other method of compliance is desirable and in keeping with the intent of the Article and with the plans, goals and objectives of the City*

The proposal meets this finding. The proposed solution will maintain one-half of the post-waiver units on-site. This provision, with the rest of units replaced by an off-site payment, is desirable and keeps with the intent of Article 13. It provides housing on-site to ensure that a large building of this type provides some opportunity for a mix of incomes within the building. Beyond the building, the payment creates more units and more family-sized opportunity for affordable housing in the City.

The provision meets the purpose of the article:

- They will provide more housing for people of mixed-incomes
- They will likely provide more three-bedroom units through the 100 Homes program, thereby offering more opportunity for households with children
- They will permit the ability to stabilize these units over the long-term
- They prevent displacement, often by permitting tenants to remain in their units. In other cases, they will provide units in neighborhoods across Somerville, often in areas zoned RA or RB where production of new affordable units is difficult to impossible through other means
- The location of these units, in neighborhoods that are often otherwise market-rate

will help maintain an integrated community

The provision meets goals of SomerVision:

- While not automatically reaching 20%, it will exceed SomerVision's 15% inclusionary goal. (E.I.A.6 on page 116)
- Project provides a strategy to preserve affordable housing around forthcoming transit through the green line corridor. (E.III.A on page 120)

*(13.4.1) When using an alternative compliance method, the quality of future units should be addressed "considering location, accessibility to schools and services, appropriate family-housing, including availability of parking, proximity to transit and availability of useable open space."*

The proposed off-site unit payment meets these findings, as follows: Compared to the on-site units in Block 8, the '100 Homes' units provide the following benefits:

- Location: While Assembly Row is an excellent site, for a family displaced from previous housing in Somerville, the 100 Homes program provides better access to the neighborhoods from which they came. In some cases, the program permits people in risk of displacement to remain in their home.
- Accessibility to schools: All 100 Homes locations are more accessible to local schools than units in Assembly Row.
- Accessibility to services: Assembly Row provides access to services, but 100 Homes units purchased in the core of East Somerville, Union Square or West Somerville have better access to daily services such as supermarket and pharmacy.
- Appropriate family housing: Units in Block 8 are limited in size, while purchasing existing housing stock in neighborhoods will likely generate some three- or four-bedroom units.
- Availability of parking / proximity to transit: 100 Homes units often come with driveways. While they may be further from transit than Block 8, most will walk ½ mile or less to a rail station.
- Availability of useable open space: Most neighborhood housing in Somerville is within reasonable proximity of a city park.

*(13.4.2) SPGA must find that "any proposed alternative method of compliance is advantageous to the City in creating or preserving affordable housing and does not result in undue geographic concentration of affordable units."*

The proposed alternative compliance method will result in more units than the 12.5% on-site with the waiver, and will spread the affordable units throughout the city.

### **SETTING THE PAYMENT:**

*(13.4.2.B) SPGA may approve of another method after consideration of comments from Planning Board, and Planning Division and the Office of Housing and Community Development (now OSPCD).*

Planning and OSPCD endorse this alternative payment calculation for the purpose of generating a minimum of 49 off-site units. The total payment will be \$10,322,000. Staff recommends that Planning Board approve this payment amount.

*(13.7.2.b) No certificate of occupancy shall be issued for any market-rate units in a development subject to the requirements of this Article until . . . any required cash payment has been made to the SPGA or its designee or, in the alternative, the SPGA has approved a definitive schedule for payment(s).*

Staff recommends that the payments be paid on the schedule as established in the attached proposed condition.

**CONDITION:**

The following condition shall be added:

- A. Obligations of the applicant: The applicant shall have the following inclusionary housing obligations:
- a. The applicant shall provide 31 units on-site (16 units at 50% AMI and 15 units at 80% AMI).
  - b. In lieu of additional on-site units, the applicant shall make payments totaling \$10,322,000 for the city to create off-site affordable units as further described in item (B) below:
    - 11.3% (\$1,166,386) will be due upon issuance of the building permit for Block 8.
    - 13.7% (\$1,414,114) will be due upon the first delivery to the site of steel structural members for the tower.
    - 33.9% (\$3,499,158) will be due upon issuance of a temporary or permanent certificate of occupancy for the first market-rate residential unit in the property.
    - The balance (41.1% / \$4,242,342) will be due upon issuance of a temporary or permanent certificate of occupancy for the 230<sup>th</sup> market-rate residential unit on the property.
  - c. The SPGA hereby determines that the applicant shall make the payment directly to a housing finance organization, and that this organization shall be selected by the OSPCD Housing Division staff.
- B. Obligation of the City: Per the provisions of Article 13, the Planning Board instructs the City to dedicate the off-site unit funds as follows:
- a. Funds shall be dedicated to the purchase and/or rehab of a minimum of 49 affordable housing units (with a minimum of 16 at 50% and 16 at 80% of AMI) through the “100 Homes” program or, should such a program be discontinued, an equivalent program. Funds may be used for any eligible step towards securing affordable units, including but not limited to purchase, rehab, finance payments, maintenance costs and a reasonable developer fee.
  - b. The funds may be leveraged through financing strategies that permit the program to increase the total number of units that may be acquired and stabilized. The funds may be matched with other funding sources, if such a strategy results in additional units being acquired and stabilized.
  - c. Expenditure of the funds shall require approval of the City of Somerville, and the funds shall be subject to audit by the City of Somerville or its designee.
  - d. Units purchased with the funds shall be subject to the City’s lottery and preference system, unless existing tenants are remaining in the building.
  - e. Funds shall be expended by the City of Somerville or a Community Housing Development Organization operating within the City of Somerville.